

TRINA A. HIGGINS, United States Attorney (#7349)

MARIA D. MOOERS-PUTZER, Assistant United States Attorney (#14730)

Attorneys for the United States of America

111 South Main Street, Suite 1800

Salt Lake City, Utah 84111

Telephone: (801) 524-5682

FILED US District Court-UT
APR 26 '23 PM08:59

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

SEALED

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAVIER CATALAN BAHENA,
ERASMO MARTINEZ,
ALVARO MARTINEZ,
FILIBERTO TAPIA OCAMPO,
OSCAR MARTINEZ,

Defendants.

INDICTMENT

Count 1: 18 U.S.C. § 922(a)(6), 18 U.S.C. § 371,
Conspiracy to Make False Statements During
Acquisition of Firearms (JAVIER CATALAN
BAHENA, ERASMO MARTINEZ, ALVARO
MARTINEZ, FILIBERTO TAPIA OCAMPO,
OSCAR MARTINEZ)

Count 2: 18 U.S.C. § 554, Smuggling Goods
from the United States (JAVIER CATALAN
BAHENA, ERASMO MARTINEZ)

Count 3: 18 U.S.C. § 922(g)(5), Alien in
Possession of a Firearm (JAVIER CATALAN
BAHENA; ALVARO MARTINEZ)

Count 4: 18 U.S.C. § 922(g)(5), Alien in
Possession of a Firearm (ERASMO
MARTINEZ)

Count 5: 18 U.S.C. § 932, Straw Purchase of a
Firearm (JAVIER CATALAN BAHENA,
ALVARO MARTINEZ)

Count 6: 18 U.S.C. § 922(a)(6), False Statement
During Acquisition of a Firearm (ALVARO
MARTINEZ; JAVIER CATALAN BAHENA)

Count 7: 18 U.S.C. § 922(a)(6), False Statement
During Acquisition of Firearms (FILIBERTO
TAPIA OCAMPO; JAVIER CATALAN
BAHENA)

Case: 2:23-cr-00163
Assigned To : Campbell, Tena
Assign. Date : 4/25/2023

The Grand Jury charges:

COUNT 1

18 U.S.C. § 922(a)(6) and 18 U.S.C. § 371
(Conspiracy to Make False Statements During Acquisition of Firearms)

On or about and between October 27, 2022, and March 16, 2023, in the District of Utah and elsewhere,

JAVIER CATALAN BAHENA, ERASMO MARTINEZ, ALVARO MARTINEZ,
FILIBERTO OCAMPO, and OSCAR MARTINEZ,

defendants herein, did knowingly and intentionally conspire, confederate, and agree, together with each other and with other persons both known and unknown to the Grand Jury, with interdependence among the members of the conspiracy, to commit the following offenses against the United States: in connection with the acquisition of firearms from a licensed firearm dealer within the meaning of Chapter 44, Title 18, United States Code, knowingly make false and fictitious written statements intended and likely to deceive the firearm dealer with respect to any fact material to the lawfulness of such acquisition of the firearms; all in violation of 18 U.S.C. § 922(a)(6) and 18 U.S.C. § 371.

In furtherance of the conspiracy and in order to effect the objects thereof, the defendants and their co-conspirators, both known and unknown to the Grand Jury, committed and caused to be committed the following OVERT ACTS, among others, in the District of Utah and elsewhere:

1. On or about and between March 7, 2023 and March 16, 2023, JAVIER CATALAN BAHENA and ERASMO MARTINEZ arranged for a person in Salt Lake City, Utah, to transport speaker boxes full of firearms to Mexico. The

- drivers were stopped in Eagle Pass, Texas, and thirty-four firearms were discovered and seized (Count 2)
2. On or about January 11, 2023, FILIBERTO TAPIA OCAMPO purchased two Beretta M9 pistols and a Ruger rifle at Impact Guns, using JAVIER CATALAN BAHENA's credit card. At the time, OCAMPO stated on ATF Form 4473 that he was the actual purchaser of the firearms. (Count 7)
 3. Between February 3, 2023, and March 16, 2023, ERASMO MARTINEZ purchased a Zastava ZPA M70 rifle from another person. The Zastava ZPA M70 was later recovered at the border. (Count 4)
 4. On or about February 16, 2023, ALVARO MARTINEZ purchased a Beretta M9 at Sportman's Warehouse, using JAVIER CATALAN BAHENA's credit card. At the time, ALVARO MARTINEZ stated on ATF Form 4473 that he was the actual purchaser of the firearm. The Beretta M9 was later recovered at the border. (Count 5)
 5. On or about March 7, 2023, JAVIER CATALAN BAHENA and ALVARO MARTINEZ went together to Doug's Shoot'n Sports. ALVARO MARTINEZ purchased an Escort Rifle and stated on ATF Form 4473 that he was the actual purchaser of the firearm. Approximately nine days later, the Escort Rifle was recovered at the border in Eagle Pass, Texas. (Counts 3 and 6)
 6. On or about February 3, 2023, OSCAR MARTINEZ purchased a Zastava ZPA M70 rifle at 1st Cash Pawn. Later, OSCAR MARTINEZ sold the firearm to

ERASMO MARTINEZ. Approximately thirty-nine days later, the Zastava rifle was recovered at the border in Eagle Pass, Texas.

COUNT 2
18 U.S.C. § 554
(Smuggling Goods from the United States)

For dates unknown but between March 7, 2023, and March 16, 2023, in the District of Utah and elsewhere,

JAVIER CATALAN BAHENA and ERASMO MARTINEZ, defendants herein, did fraudulently and knowingly export and send, and attempt to export and send from the United States to Mexico, merchandise, articles, and objects, that is:

- Zastava Arms Z-PAP M70 rifle
- Tisas 1911 A1 pistol
- Omega AR12 shotgun
- Walther Hammerli TAC RI .22 rifle
- Smith & Wesson 1000 shotgun
- Beretta 92D Centurion pistol
- Silver Eagle Tac Pro 12 gauge shotgun
- Beretta M9 pistol
- Walther Colt Government pistol
- Beretta 92FS pistol
- Walther Colt Government pistol
- Beretta M9 pistol

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- Walther Colt Government pistol
- Walther Colt Government pistol
- Smith & Wesson M&P 15-22 rifle
- Ruger 10/22 .22 rifle
- Ruger 10/22 .22 rifle
- Ruger 10/22 .22 rifle
- Ruger 10/22 .22 rifle
- Ruger 10/22 .22 rifle
- Ruger 10/22 .22 rifle
- Escort Shotgun
- Ruger 10/22 .22 rifle

contrary to the laws and regulations of the United States, to wit: Title 50, United States Code, Section 4819(a)(2) and (b) and Title 15, Code of Federal Regulations Section 730, et. seq., and did receive, conceal, buy, sell, and in any manner facilitated the transportation, concealment, and sale of said merchandise, articles, and objects, prior to exportation, knowing the same to be intended for exportation contrary to said laws and regulations of the United States, all in violation of 18 U.S.C. § 554 and § 2.

COUNT 3

18 U.S.C. § 922(g)(5)
(Alien in Possession of a Firearm)

On or about March 7, 2023, in the District of Utah,

JAVIER CATALAN BAHENA,

defendant herein, aided and abetted by ALVARO MARTINEZ, knowing he was an alien illegally and unlawfully in the United States, did knowingly possess a firearm, to wit: an Escort shotgun, and the firearm was in and affecting commerce; all in violation of 18 U.S.C. § 922(g)(5) and punishable pursuant to 18 U.S.C. § 924(a)(8).

COUNT 4

18 U.S.C. § 922(g)(5)
(Alien in Possession of a Firearm)

For dates unknown but between February 3, 2023, and March 16, 2023, in the District of Utah,

ERASMO MARTINEZ,

defendant herein, knowing he was an alien illegally and unlawfully in the United States, did knowingly possess a firearm, to wit: Zastava ZPA M70 rifle and the firearm was in and affecting commerce; all in violation of 18 U.S.C. § 922(g)(5) and punishable pursuant to 18 U.S.C. § 924(a)(8).

COUNT 5
18 U.S.C. § 932
(Straw Purchase of a Firearm)

On or about February 16, 2023, in the District of Utah,

ALVARO MARTINEZ,

defendant herein, aided and abetted by JAVIER CATALAN BAHENA, did knowingly purchase a firearm, to wit: a Beretta M9, on behalf of, and at the request and demand of, JAVIER CATALAN BAHENA, knowing and having reasonable cause to believe that JAVIER CATALAN BAHENA was an alien illegally and unlawfully in the United States, and the firearm was in and affecting commerce; all in violation of 18 U.S.C. § 932(b)(1).

COUNT 6
18 U.S.C. § 922(a)(6)
(False Statement During Acquisition of a Firearm)

On or about March 7, 2023, in the District of Utah,

ALVARO MARTINEZ,

defendant herein, aided and abetted by JAVIER CATALAN BAHENA, in connection with the acquisition of a firearm, to wit: an Escort Shotgun, from a licensed firearm dealer within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious written statement intended and likely to deceive the firearm dealer with respect to any fact material to the lawfulness of such acquisition of the firearm, that is he falsely answered “yes” on ATF form 4473 asking whether he was the actual transferee/buyer of the firearm, when, as he then knew, the answer was untrue; all in violation of 18 U.S.C. § 922(a)(6).

COUNT 7
18 U.S.C. § 922(a)(6)
(False Statement During Acquisition of Firearms)

On or about January 11, 2023, in the District of Utah,

FILIBERTO TAPIA OCAMPO,

defendant herein, aided and abetted by JAVIER CATALAN BAHENA, in connection with the acquisition of firearms, to wit: two Beretta pistols and a Ruger rifle, from a licensed firearm dealer within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious written statement intended and likely to deceive the firearm dealer with respect to any fact material to the lawfulness of such acquisition of the firearms, that is he falsely answered “yes” on ATF form 4473 asking whether he was the actual transferee/buyer of the firearms, when, as he then knew, the answer was untrue; all in violation of 18 U.S.C. § 922(a)(6).

NOTICE OF INTENT TO SEEK FORFEITURE

Pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), upon conviction of an offense alleged herein in violation of 18 U.S.C. § 922, the defendants shall forfeit to the United States of America any firearms and ammunition involved in or used in the commission of the offense, including but not limited to:

- Zastava Arms Z-PAP M70 rifle, serial no. Z70-123897
- Tisas 1911 A1 pistol, serial no. T0620-21K05181
- Omega AR12 shotgun, serial no. 538-H22YD-30
- Walther Hammerli TAC RI .22 rifle, serial no. HA019196

- Smith & Wesson 1000 shotgun, serial no. FS63634
- Beretta 92D Centurion pistol, serial no. BER254535Z
- Silver Eagle Tac Pro 12 gauge shotgun, serial no. 45-H21YD-1729
- Beretta M9 pistol, serial no. BM051751
- Walther Colt Government pistol, serial no. WD081754
- Beretta 92FS pistol, serial no. BM052820
- Walther Colt Government pistol, serial no. WD076291
- Beretta M9 pistol, serial no. BM062991
- Beretta M9 pistol, serial no. BM062995
- Beretta M9 pistol, serial no. BM062996
- Beretta M9 pistol, serial no. BM063000
- Walther Colt Government pistol, serial no. WD085002
- Walther Colt Government pistol, serial no. WD085003
- Smith & Wesson M&P 15-22 rifle, serial no. LBF4611
- Ruger 10/22 .22 rifle, serial no. 117-36175
- Ruger 10/22 .22 rifle, serial no. 0023-00886
- Ruger 10/22 .22 rifle, serial no. 0022-19210
- Ruger 10/22 .22 rifle, serial no. 0021-33850
- Ruger 10/22 .22 rifle, serial no. 0021-77088
- Ruger 10/22 .22 rifle, serial no. 0023-03757
- Escort Shotgun, serial no. 912063
- Ruger 10/22 .22 rifle, serial no. 0021-34008

-Beretta 92FSR pistol, serial no. BM066956

-Beretta 92FS pistol, serial no. BER818707

-Ruger 10/22 .22 rifle, serial no. 0022-56858

-associated ammunition

A TRUE BILL:

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FOREPERSON OF THE GRAND JURY

TRINA A. HIGGINS
United States Attorney



MARIA D. MOOERS-PUTZER
Assistant United States Attorney